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Newton City/CMAA
2014 NOV 13 PM 2:50
David A. Oison, CMC
Newton, MA 02459

Middlesex South Registry of Deeds
Maria C. Curtatone, Register
208 Cambridge Street
Cambridge, MA 02141
617-679-6300
www.cambridgedeeds.com

5 pages

#167-14

CITY OF NEWTON

IN BOARD OF ALDERMEN

October 20, 2014

David A. Olson, CMC
Newton, MA 02459

2014 OCT 23 PM 1:02

RECEIVED
Newton City Clerk

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a registered medical marijuana dispensary (RMD), to waive one parking stall, to locate parking in the front setback, and to erect a projecting wall-mounted sign, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Alderman Marc Laredo:

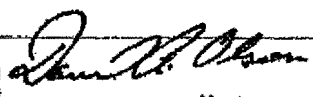
697 Washington Street, Newton, MA
Deed Ref: Book 2640, Page 209

1. The site is an appropriate location for the RMD use, as it meets the requirements established in the Newton Zoning Ordinance. (§30-24(d)(1))
2. The proposed use as developed and operated, including the hours of operation, will not adversely affect the neighborhood, as the intensity of the use will not be substantially greater than the previous use, or than other uses allowed by right on the site. (§30-24(d)(2)), (§30-36(f)(10))
3. There will be no nuisance or serious hazard to vehicles or pedestrians, and the petitioner is offering to make a voluntary contribution for improvements to the pedestrian crossing at the intersection of Washington Street and Harvard Street. (§30-24(d)(3))
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. The site is accessible to regional roadways and public transportation, and the building and site are accessible to persons with disabilities. (§30-24(d)(4)), (§30-36(f)(7)), (§30-36(f)(8))
5. Literal compliance with the parking requirements is impractical due to the size and slope of the lot, and granting a parking waiver of one stall would be in the public interest. (§30-19(m))
6. The projecting wall sign is in the public interest, as it will improve way-finding for customers of the proposed use. (§30-20(l))
7. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana. (§30-36(f)(1))
8. The site is at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate in a structured, scheduled manner as more specifically described in *Guidance for Municipalities Regarding the Medical Use of Marijuana*, updated December 13, 2013, issued by the Massachusetts Executive Office of Health and Human Services, or from a house of worship or religious use. (§30-36(f)(2))

David A. Olson, CMC
Newton, MA 02459

2014 OCT 13 PM 2:50

RECEIVED
Newton City Clerk

A True Copy
Attest

City Clerk of Newton, Mass.

9. The site is designed such that it provides convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation. (§30-36(f)(3))
10. Traffic generated by client trips, employee trips, and deliveries to and from the RMD does not create a significant adverse impact on nearby uses. (§30-36(f)(4))
11. Loading, refuse and service areas are designed to be secure and shielded from abutting uses. (§30-36(f)(5))
12. The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior. (§30-36(f)(6))
13. The site is located where it may be readily monitored by law enforcement and other code enforcement personnel. (§30-36(f)(9))

PETITION NUMBER: #167-14

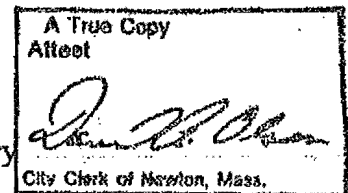
PETITIONER: Garden Remedies, Inc.

LOCATION: 697 Washington Street, on land known as SBL 23, 19, 1b, containing approximately 16,669 square feet of land

OWNER: 697 Washington Street Realty Trust, Mark Donato, Trustee

ADDRESS OF OWNER: 1211 Washington Street
Newton, MA 02465

TO BE USED FOR: Registered Medical Marijuana Dispensary



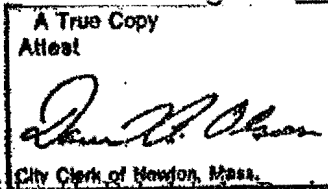
CONSTRUCTION: Brick

EXPLANATORY NOTES: §30-36, to allow a Registered Medical Marijuana Dispensary; §30-19(d)(10) & §30-19(m), to waive one parking stall; §30-19(h)(1) & §30-19(m), to allow parking in the front setback; §30-20(l), to exceed the allowable horizontal projection for a wall sign.

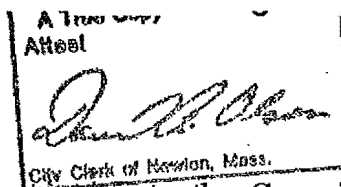
ZONING: Business 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
 - a. Site Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated July 24, 2014, and revised October 6, 2014.
 - b. Parking Layout Plan, signed and stamped by Joseph R. Porter, Professional Land Surveyor, dated July 24, 2014, and revised October 6, 2014.



- c. Floor Plans, signed and stamped by Phillip H. Bakalchuk, Registered Architect, dated June 2, 2014.
 - d. Proposed Lighting Plan, prepared by Phillip H. Bakalchuk, Registered Architect, dated May 28, 2014.
 - e. Proposed Plan Detail Wrought Iron Fence Entry, prepared by Phillip H. Bakalchuk, Registered Architect, dated May 20, 2014.
 - f. Sign Plan, prepared by GenSign, dated April 15, 2014.
2. The petitioner shall employ a police detail, subject to availability of such police details, on the site during all operating hours for the first week that it is open to customers, and subsequently on an interim basis for ninety (90) days from 4:00 p.m. until 8:00 p.m., Monday through Saturday. The times during the day when a police detail is present may be modified as deemed appropriate by the Newton Police Department.
 3. The petitioner shall see customers on an appointment only basis.
 4. The petitioner shall not have more than six (6) staff on the site at any one time.
 5. The petitioner may only operate between the hours of 10:00 a.m. and 8:00 p.m., Monday through Saturday. The petitioner shall not operate on Sundays.
 6. The petitioner shall limit on-site transactions to one ounce of medical marijuana, or its equivalent in whatever form the medical marijuana is dispensed, per customer per site visit, with the balance of the order delivered to customers' homes.
 7. Perimeter lighting shall be directed downward, shall not shed light on abutters' properties, and shall comply with the Lighting Plan identified in Condition 1 above.
 8. The petitioner shall remove any trash on the unimproved portion of the property on a monthly basis.
 9. The petitioner shall locate and screen the dumpster to minimize its visibility from the public way. The dumpster(s) shall be kept closed, and the area surrounding the dumpster shall be kept free of debris.
 10. The granting of a special permit to allow an RMD to operate at this site applies only to the petitioner, and does not run with the land. At such time as the petitioner has permanently stopped operations at the site, for whatever reason including but not limited to the loss of its registration with the Massachusetts Department of Public Health, the RMD use as well as the 1 stall parking waiver and projecting sign waiver granted by this Board Order shall terminate.
 11. The petitioner shall maintain its registration with the Massachusetts Department of Public Health. Within one (1) week from the date of the initial and annual renewal of its registration, the petitioner shall file a copy of the same with the Clerk of the Board of Aldermen, the Commissioner of Inspectional Services and the Planning Department. The petitioner shall immediately notify the Clerk of the Board of Aldermen, the Commissioner of Inspectional Services and the Planning Department if its registration is not renewed or is revoked.
 12. At regular intervals, and not less than annually, the petitioner shall seek permission from the Department of Public Health to install an on-site ATM for use by its customers. If such permission is granted, the petitioner shall install an on-site ATM.
 13. In order to provide information to the City regarding the operation of the RMD and the effectiveness of the mitigations and conditions imposed through this Board Order, the petitioner shall monitor the RMD's operation in the following areas and at the following intervals, and

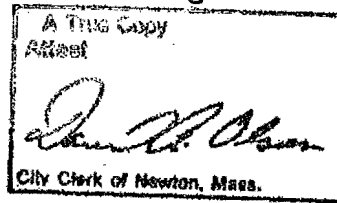


shall provide reports summarizing such monitoring to the Commissioner of Inspectional Services and the Director of Planning and Development, which reports shall also be filed with the Land Use Committee of the Board of Aldermen:

- a. Within ninety (90) days of commencing operations of the RMD, a report regarding the presence of the police detail to determine if the additional security afforded by the police detail is warranted or necessary, and whether such presence as required in Condition 2 should be modified in any respect, including a possible continuation of such presence. Such report shall include a recommendation from the Police Department including the basis for such recommendation; and
- b. Within six (6) months and again at twelve (12) months of commencing operations of the RMD, a report on pedestrian and traffic safety concerns, if any, that may have arisen from the operation of the RMD and on the issue of the security of the facility itself, as well as a report on the number of customers coming to the site and the peak times when customers are at the site.

If the Commissioner of Inspectional Services and Director of Planning and Development find that the reports raise concerns regarding the security of the facility or regarding public safety, including pedestrian or traffic safety, created by the operation of the RMD at this site, or if at the time the reports are filed, but independent of the information contained in the reports, the Commissioner of Inspectional Services and Director of Planning and Development have concerns regarding public safety or the security of the facility, the petitioner shall return to the Land Use Committee to see if further mitigations on the operation of the RMD are warranted to address such public safety or security of the facility concerns. The petitioner has agreed to a voluntary contribution of an amount up to \$5,000 to pay for additional mitigations if warranted pursuant to this Condition.

14. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this board order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
15. No Final Inspection and/or Occupancy Permit for the portion of the building covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer, final as-built plans in paper and digital format signed and stamped by a licensed land surveyor.
 - c. Made a voluntary contribution in an amount not to exceed \$15,000 to the City of Newton for a curb extension or other pedestrian improvements at the intersection of Harvard Street and Washington Street in Newtonville.



Under Suspension of Rules
Readings Waived and Approved
21 yeas 2 nays (Alderman Baker and Cote) 1 absent (Alderman Harney)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on October 23, 2014. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 10/23 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:

(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen